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Potential Impact of Mandatory Minimum Sentencing on Existing Division of Corrections Adult Offender Inmate Capacity

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Summary

This report was prepared for the Alaska Criminal Code Revision Commission to provide its members with an assessment of the potential impact on the Alaska Division (later Department) of Corrections adult offender inmate capacity likely to result from enactment of mandatory minimum sentencing provisions. The study projected that DOC would need at least 200 more secure units by 1981 if mandatory minimum sentencing was applied to second or subsequent felony offenders for a limited number of felony violent crimes. Application of mandatory minimums for such offenders to ALL felonies would likely result in DOC's entire capacity being used up within three years after enactment of minimum sentencing guidelines.

POTENTIAL IMPACT OF MANDATORY
MINIMUM SENTENCING ON
EXISTING DIVISION OF CORRECTIONS
ADULT OFFENDER INMATE CAPACITY



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"POTENTIAL IMPACT OF MANDATORY MINIMUM SENTENCING
ON EXISTING DIVISION OF CORRECTIONS
ADULT OFFENDER INMATE CAPACITY"

A Report Prepared for the
Alaska Criminal Code Revision Commission

By
The Criminal Justice Center
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JC 7615

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April, 1976

Summary

This report was prepared for the Alaska Criminal Code Revision Commission to provide its members with an assessment of the potential impact on Division of Corrections (D.O.C.) adult offender inmate capacity likely to result from the enactment of mandatory minimum sentencing provisions in Alaska.

The Commission previously had been presented with data on D.O.C. inmate capacity and on sentencing patterns which suggested that any significant change in existing sentencing patterns might result in a rapid and substantial increase in inmate populations. The data presented did not provide any indication of what kind of changes in inmate population might actually result from mandatory minimum sentences. This report provides that kind of information.

This study examined the following data:

D.O.C. adult inmate capacity.

D.O.C. adult inmate populations as of approximately 1 January, 1976.

1973 felony conviction and sentencing data contained in Sentencing in Alaska, a study conducted by the Judicial Council.

1975 felony convictions.

A sample of 1975 felony sentences.

Analysis of this data suggests the following conclusions:

A very significant proportion of the population of convicted

felons in Alaska are not being sent to or remaining within our correctional institutions for periods of time in excess of one year.

Yet, the system as a whole is currently operating on an annualized basis at "rated capacity". Thus, we can only conclude that any legislative change in sentencing structure which would have the effect of significantly altering existing sentencing patterns to require longer sentences for any class of offender is bound to produce a strain on existing institutional capacity.

- The enactment of a mandatory minimum sentencing scheme applied to second or subsequent felony offenders for a limited number of violent felony crimes will require by at least 1981 the addition of approximately 200 secure units to existing D.O.C. capacity.

- Application of mandatory minimums for second or subsequent felony offenders to all felony crimes would likely result in the entire existing adult sentenced offender capacity of D.O.C. being utilized by those so sentenced within a period of three years from the date of enactment.

BACKGROUND AND INTRODUCTION

Sentencing those convicted of criminal acts has always evoked considerable controversy within the criminal justice community and among segments of the larger society served by the criminal justice system. It would serve no useful purpose in this report to describe the range of issues which have resulted from that controversy or to identify the variety of positions which individuals or groups have taken with respect to those issues.*

One of the oldest of the issues involves the concept of mandatory minimum sentences. Briefly stated, the concept implies that an individual convicted of a crime will have to serve a prescribed minimum amount of time in jail or prison regardless of any mitigating factors related to the crime or the individual.

The Preliminary Report of the Criminal Code Revision Commission, at pages 160 - 174, provides a brief discussion of the pros and cons of mandatory minimum sentences for the reader of this report not fully conversant with the arguments which have evolved around this issue.

Because of recent events in Alaska, lively discussions have centered around the issue of whether or not a mandatory minimum sentencing scheme should be enacted in this state.

*The interested reader is directed to the following texts for a fairly comprehensive review of these issues:

A.B.A. Standards relating to Sentencing Alternatives and Procedures (1968); Ezorsky, Philosophical Perspectives on Punishment (1972); Frankel, Criminal Sentences (1973); and Zimring & Hawkins, Deterrence (1973).

Much of that discourse has been directed towards issues such as the effect such a proposal might have on crime rates, its relationship to judicial discretion, etc. Very little discussion has focused directly on the issue of its potential impact on existing correctional institution capacity.

This study was undertaken to provide some answers to that issue. At the outset it should be understood that completely accurate answers are an impossibility. The dynamics of crime and the rapid social changes currently taking place in Alaska preclude such answers, desirable as they might be.

This fact, however, does not mean that no useful answers are possible. To the contrary, data is available upon which reasonable assumptions can be based and from which reasonable conclusions can be drawn.

In assessing the impact of mandatory minimum sentences on existing corrections capacity, four types of data are essential.

First, data must be obtained on existing D.O.C. capacity.

Second, data must be obtained on convictions.

Third, data must be obtained on sentences attached to convictions.

Fourth, data must be obtained on the prior criminal history records of those convicted.

In this report, data on the second, third and fourth elements has been limited to felony convictions, sentences attached to felony convictions and prior criminal history records for felony convictions. This has been done because there has been no sugges-

tion that mandatory minimum sentences ought to be applied to misdemeanor crimes.*

A note is required about the data used in this report. With the exception of the data on 1975 felony sentences, all other data has been derived from the work of others. Data on D.O.C. capacity was taken from the 1976 Criminal Justice Plan prepared by the Criminal Justice Planning Agency. 1973 data on felony convictions and sentences was taken from Sentencing in Alaska, a report prepared by the Alaska Judicial Council. 1975 felony conviction data was provided by the Alaska Court System. Inmate population data was provided by the Division of Corrections. The Center wishes to acknowledge the cooperation provided to it by those agencies, especially the Court System and the Division of Corrections. Interpretation of the meaning of this data is, of course, the author's and should not be taken to mean that the agency involved would have reached similar conclusions.

* Alaska currently provides for a mandatory minimum sentence of 10 days in cases involving driving a motor vehicle while an operator's license is cancelled, suspended or revoked. See AS 28.15.300.

GENERAL APPROACH

We first looked at Division of Corrections institutional capacity, for it is against this capacity that the impact of mandatory minimum sentences must be measured. Table 1 sets forth that capacity.

Since we have limited our inquiry to adult felony offenders the total capacity of the system (833 units) must be reduced by housing units dedicated to juveniles. In addition, the nature of special service units - hospital beds, drying-out units, etc. - lessens their utility for housing long-term inmates.

Thus, a more realistic assessment of adult capacity is 566 units. However, sound correctional policy and administration dictates that the correctional system function at less than full capacity. Consequently, the concept of "rated" capacity is used to define the ideal upper limits on institutional capacity. "Rated capacity" means the extent to which institutions can operate efficiently and still provide programs related to the rehabilitation of inmates*. The "rated capacity" of Alaska's adult housing units is 512 units.

However, these 512 units must house not only those serving sentences, but also those awaiting trial or awaiting sentencing. Table 2 provides figures on the distribution of adult inmates among these two groups on or about January 1, 1976.

*Article I, Section 12 of the Alaska Constitution states, in part, that "Penal administration shall be based on the principles of reformation. "

Division of Corrections personnel also informed us that a normal ratio of sentenced to detention population is two-thirds to one-third, respectively.

We next looked at the time remaining to be served for those currently under sentence. This data provided a picture of how much of existing capacity will be tied up in the future by the current inmate population. Table 3 contains this data.

With an understanding of D.O.C.'s current capacity in hand, we then turned our attention to data on felony convictions and sentences - the means by which capacity is filled.

We would have preferred much more historical data on both these items but that data is not readily available. As such, we worked with that which was available.

The Judicial Council's study of 1973 felony sentencing contained data on felony convictions obtained in that year. Unfortunately, for our purposes, it aggregated convictions in an artificial grouping of six crime types.*

In 1973 a total of 518 defendants were convicted on felony crimes. Table 4 provides a breakdown of those convictions for each of the six crime types.

The Alaska Court System provided us with a computer print-out of 1975 felony convictions. While the Court System's data provided a more precise breakdown of those convictions by crime type, they too aggregated some crimes under a single code heading.

*See Appendix one for a definition of each of those groups.

In order to deal with convictions in a consistent manner, we took the 1975 data and aggregated it under the same categories used in the Judicial Council study. Table 5 contains the results of that exercise.

We next turned our attention to sentences which resulted from felony convictions. We first looked at sentencing data contained in the Judicial Council study. Since our study is only concerned with the impact of sentencing on D.O.C. capacity, we were only interested in data from that study which related to time to be served. Table 6 provides that data.

Similar data was not readily available for 1975 felony convictions. The Alaska Court System, however, made available to the Center as many criminal case history forms for 1975 cases as they had available in Anchorage. From these forms we were able to obtain sentence data on 238 defendants, or approximately 60% of all defendants convicted in 1975 on felony charges.* Unlike the 1973 data, which was limited to Fairbanks, Juneau and Anchorage cases, the 1975 data was from all Superior Courts in the state. Table 7 contains the results of the 1975 sample.

The final piece of data required for our analysis was the frequency with which those convicted of felony crimes had prior criminal histories of felony convictions. This was the most difficult data to obtain. The 1973 sentencing study had some

*A 100% sample would have been impossible since some unknown number of defendants were still awaiting sentencing at the time this survey was made.

data on this subject. To have developed similar data for the 1975 sample would have required matching the names of those convicted against criminal history records in Juneau or searching through presentence reports which would have meant travelling to every Superior Court in the state. Time and money limitations precluded either effort.

The 1973 data is useful, however. That study was able to ascertain the prior criminal history of 492 of the 518 defendants convicted on felony charges in that year. Of those 492, 128 (approximately 26 per cent) had prior felony convictions on their records.*

The 1973 data also provided a breakdown of criminal history among those convicted within five of the six artificial crime categories. Table 8 presents that breakdown.

We now had data from which we could proceed to project the impact of mandatory minimum sentence schemes on existing D.O.C. capacity.**

We decided to look at that impact in two ways: (1) if mandatory minimum sentences were applied to all second felony offenders convicted for felony crimes; and (2) if mandatory minimum sentences were applied only to second offenders convicted for a limited number of "violence" related felony crimes.

* That study did not reveal the age of those prior convictions, nor did it distinguish between second, third, fourth, etc. felony convictions.

** We recognize that it would have been preferable to have had a much better picture of historical trends for each type of data. This report, however, does not purport to base its conclusions on the results of an exacting scientific research methodology.

Our first task was to determine how much of the existing adult sentenced offender capacity would be taken up in future years by those already serving sentences. Table 3 told us the actual time those serving sentences on or about January 1, 1976, had left on their sentences. That time is not the same as when they would be released, however. Parole would determine that factor for many of the inmates.

Since we assumed an effective date of January 1, 1977, for our study of mandatory minimums, we were concerned about inmate population on that date. We assumed that all of the 179 inmates with two years or less time remaining on January 1, 1976, would be released within the year, either by serving all their sentence or by being released on parole.

We further assumed that none of the inmates with four or more years left on their sentences as of January 1, 1976, would be released during 1976. For those inmates with between two and four years left as of January 1, 1976, we assumed that two-thirds would be released during 1976.

Table 9 presents the results of these assumptions when they are applied to the inmate population contained in Table 3.

Thus, we have a projected built-in population of 117 inmates on January 1, 1977. We repeated the process for the years 1978, 1979, 1980 and 1981. The results are presented in Tables 10, 11, 12, and 13, respectively.

The 8 inmates remaining in the system as of January 1, 1981, are projected to remain until at least 1986. Six were serving

life sentences on January 1, 1976; one had forty years left and the other 37 years.

Our second task was to project the number of inmates to be sentenced in 1976 and the time they would receive. Once that was accomplished we would then have to remove them from the system by attrition as we did with those serving time on January 1, 1976.

In dealing with 1976 felony convictions (and with all future convictions as well) we decided to use an arbitrary figure of 500. We were confronted with data in 1975 which indicated at least a 25 per cent drop in felony convictions over calendar year 1973. There had been a steady decline in felony filings since 1973 and with it a decline in convictions. We did not have time to explore the reasons why this decline had taken place, but decided to assume that because of rising crime rates, 1976 (and future years) would produce results more closely resembling 1973 figures.

Using sentencing data from 1973 contained in Table 6, we projected sentences for 1976. The results are shown in Table 14. They indicate a projected total of 280 defendants receiving time. For this study, we assumed that all those who received less than a year would be released by January 1, 1977. This resulted in a total of 90 inmates sentenced in 1976 who would be serving time on January 1, 1977.

Some of that number would likely be eligible for parole

during 1977 and in succeeding years. Following the same process used for the January 1, 1976 inmate population, we projected the attrition of 1976 sentenced inmates. Those results appear in Tables 15 through 17.

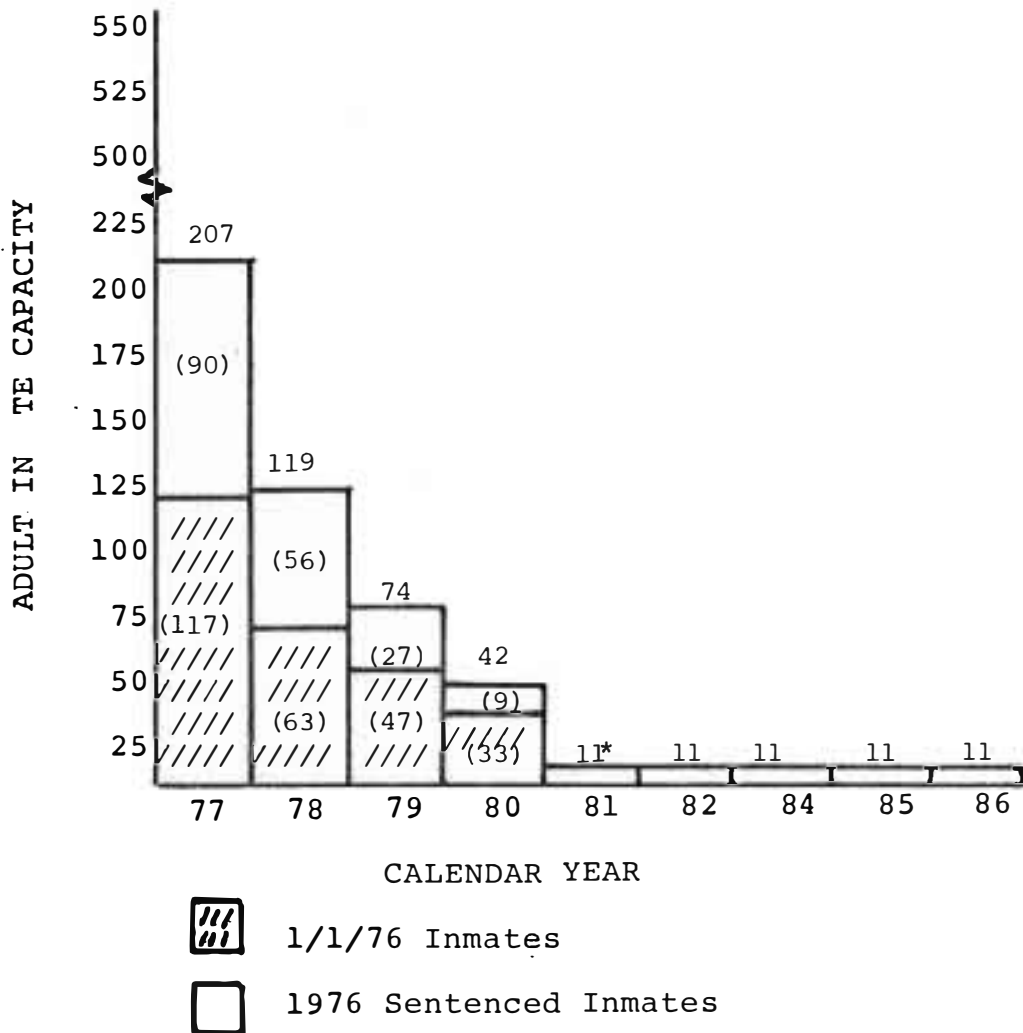
Of the nine inmates sentenced in 1976 remaining in the system on January 1, 1980, we have assumed that six would be paroled during 1980 and that the remaining three would stay in the system through 1986, at least.

We were now ready to project inmate populations resulting from sentences imposed after the effective date of mandatory minimums (January 1, 1977). Those projections are found in the following section dealing with conclusions.

Before proceeding with that analysis, however, it will be useful to portray what amount of adult sentenced offender population would already be filled by pre-1977 sentenced inmates. Figure 1 provides that picture.

Figure 1

Adult Sentenced Offender Population



* The eleven inmates are made up of 8 from the 1/1/76 group and 3 from the 1976 group.

CONCLUSIONS

Case One: Across the Board Mandatory Minimum Sentences for Felony Recidivists

We first decided to look at the impact on D.O.C. capacity of the application of mandatory minimum sentences to all felony convictions in which the defendant had a prior felony record.

Relying upon 1973 data for second offenders (supposing a yearly total of 500 felony convictions), we assumed that 25 per cent - or 125 defendants - would receive mandatory minimum sentences.*

This left us with another 375 defendants for whom sentences would have to be projected. We assumed that all those who received sentences in excess of two years in 1973 would have received a mandatory minimum sentence in 1977. (This assumption permitted us to make a conservative estimate of the impact of mandatory minimums insofar as yearly growth of inmate population was concerned.) Using sentence data from Table 6,** we took 5 per cent of 375 defendants - a total of 19 - and projected a sentence of from one to two years. Similarly, we used the 24 per cent figure for a sentence of more than 30 days but less than one year and divided the result - 90 - by two for a total of 45 new inmates. To maintain the conservative nature of our projection we also assumed that all these defendants would be

* We have assumed a mandatory minimum sentence to be half the maximum sentence for the crime currently provided by statute.

**We used 1973 sentencing data because it was more complete than that for 1975. A comparison of Tables 6 and 7 indicates that despite the drop in the number of defendants convicted between those two years, sentences imposed remained fairly consistent.

out of the system within a year.

In sum, for all future years we projected two groups of new inmates. The first, those sentenced to mandatory minimums, totaled 125. The second, a total of 64, consisted of all other defendants sentenced on felonies.

We also assumed an average three year mandatory minimum sentence. Information on the exact crime for which a defendant was convicted did not exist for the 1973 data. However, from a survey of 124 major felony offenses listed in Title 11 and Title 17, we determined that 74 (or 60 per cent) carried a maximum penalty in excess of seven years. Thus the three year average for a minimum is a conservative figure.*

Because of the nature of mandatory minimum sentences, each group of 125 defendants so convicted remains in the system for three years, producing a total of 375 inmates so convicted after three years. Under our assumptions, this number would remain constant thereafter, although in reality some would obviously remain for longer periods.

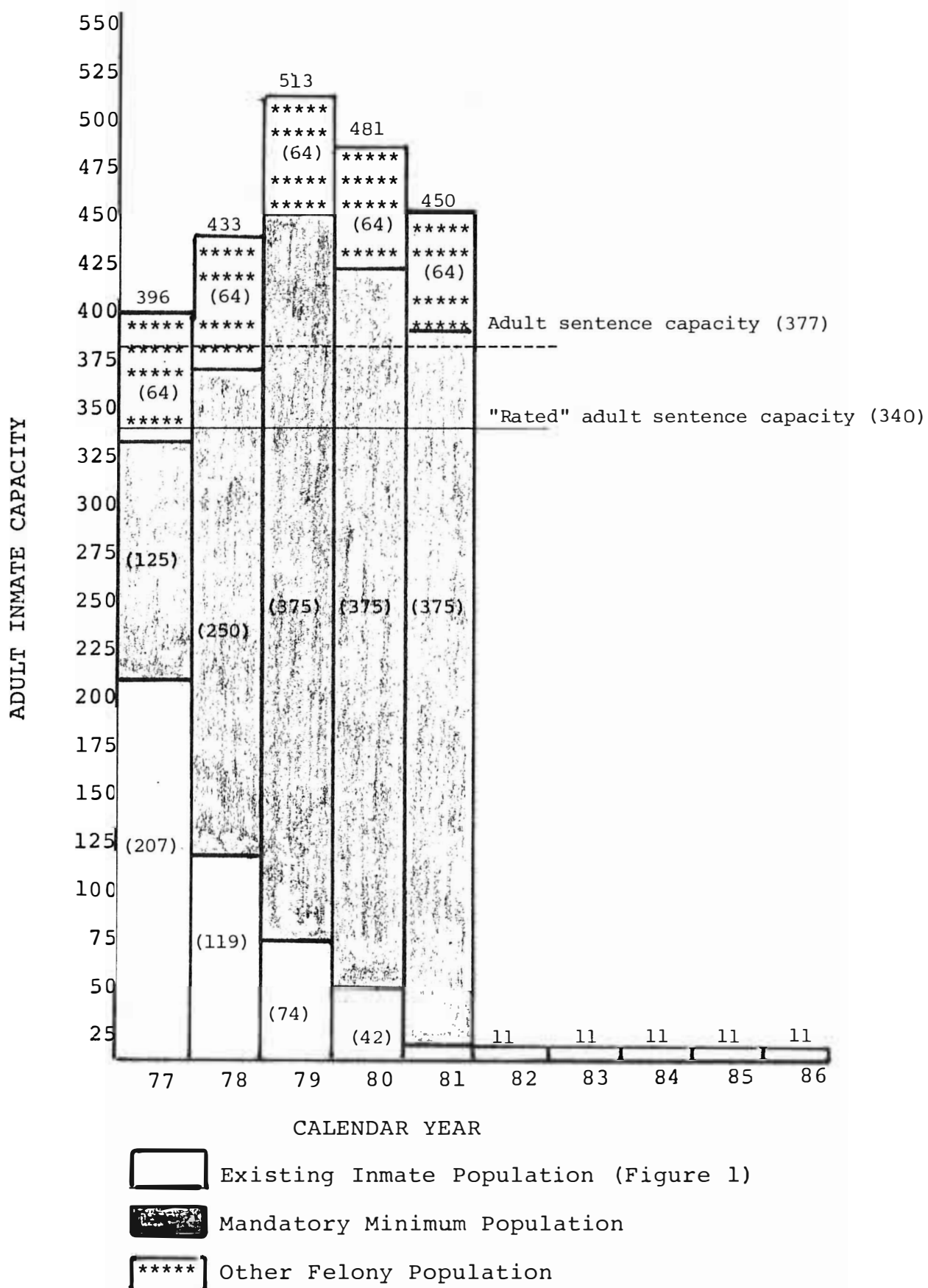
Imposing this data on that contained in Figure 1, we derive a projection of the impact of mandatory minimums on existing adult sentenced offender capacity. Figure 2 presents that picture.

As Figure 2 demonstrates, the application of mandatory minimum sentences to all second felony offenders is likely to result in the entire existing adult sentenced inmate capacity

* It should be noted that we take no account of mandatory "minimums" of the maximum sentence for third or subsequent offenders. If such a policy were adopted the impacts projected here would have a lasting effect far beyond our five year time frame.

Figure 2

Projected Impact of Mandatory Minimums
on Existing Adult Sentenced Capacity



being dedicated to housing those so convicted within a period of three years from the effective date of enactment.

Figure 2 also demonstrates that the impact in the first year after enactment would place a severe strain on existing sentence capacity, a strain which would increase even more radically in the next two years.

More explicitly stated, by 1979 no more than approximately 50 adult units would be available for housing adult inmates other than those convicted of felonies.

Likely results of this strain would be:

- A. The total elimination of prison sentences for misdemeanor offenses.
- B. Elimination of sentences of imprisonment for those now being sentenced to less than 30 days in felony cases.
- C. Increased numbers of defendants released on bail or R.O.R. pending trial, or awaiting sentencing.*

* A study of bail practices in Anchorage for the year 1973, conducted by the Judicial Council, reported that approximately 13% of felony defendants were detained from arrest through disposition in that year. We have found no further studies from which we might ascertain the representativeness of that data for other Judicial Districts, or for other years. If, however, the 13% figure is average, and, if the average of 6.3 months required for the disposition of felony cases at the Superior Court level reported in the 1974 Annual Report of the Alaska Court System (at page 63) is reflective of current or future time frames, then we might be able to project the number of adult units required for this function (detention) in the future. Using these averages and our assumed caseload of 500 felony defendants, we arrive at a figure of 409.5 man-months, or approximately 34 units on an annualized basis.

Case Two: Limited Mandatory Minimum Sentences

The likely consequences of across the board mandatory minimums were such that it seemed improbable that such a scheme would be enacted. Therefore, we decided to explore the impact of a more limited application of mandatory minimum sentences.

Because mandatory minimums are implicitly "punishment" oriented, we decided in this study to limit their application to second offenders convicted for crimes of violence or for crimes which contained the risk of violence. Appendix Two sets out that list of crimes and defines a second offender.

We followed the same process used in Case One to determine impact, although the assumptions made for this case were quite different.

To determine those defendants who would be sentenced to mandatory minimums we looked at both 1973 and 1975 felony convictions by crime type. (See Tables 4 and 5). We concluded that we could assume that approximately 150 defendants would be convicted of the crimes listed in Appendix Two in each year. Those same conviction figures indicated that approximately 68 per cent of these convictions would be for violent type crimes, about 16 per cent for robbery and about 16 per cent for burglary in a dwelling. Table 8 data was used to determine the percentage of defendants in each of those groups with prior felony convictions. Table 18 presents data on our projections of the number of defendants likely to receive mandatory minimum sentences each year.

Having determined the number of defendants who received mandatory minimum sentences on this hypothesis as 41, we then calculated the remainder of those convicted as 459.

We assumed that all those defendants who received 5 years or more in 1973 would have received mandatory minimum sentences. Using Table 6 data, we subtracted that number (40) from the 518 defendants convicted in that year leaving us a total of 478 defendants. Again relying upon Table 6 figures, we divided 478 by the number of defendants receiving each type of sentence (other than five years or more) to arrive at a new percentage of the total number sentenced for that sentence type. Those percentages were then used for projecting sentences for the 459 remaining defendants. Table 19 contains those results.

Because their annualized impact is small, we ignored the effects on inmate capacity for those sentenced to less than 30 days. We divided the number sentenced to more than 30 days but less than one year by 2 to arrive at a rough annualized impact on capacity for that group. This resulted in a total of 115 new inmates each year.

We then assumed (because of the one-third of sentence eligibility rule) that one-half those sentenced to more than one but less than two years would be paroled in the next year and that all those who received from 2 - 5 years would not be paroled. This resulted in a total of 42 inmates still in prison one full year after the year of sentence. In the next year, we assumed that the remainder of the 1 - 2 year sentenced inmates would be

paroled, as would two-thirds of the 2 - 5 year group. The nine inmates remaining would be paroled in the third year after sentencing. We were then in a position to project impact.

In the absence of any change in existing penalties provided by law, for those crimes listed in Appendix Two, the application of mandatory minimum sentences* to second felony offenders will likely result in the total dedication of existing adult offender units to inmates convicted on felony charges by the year 1983. Figure 3 provides a picture of that growth.

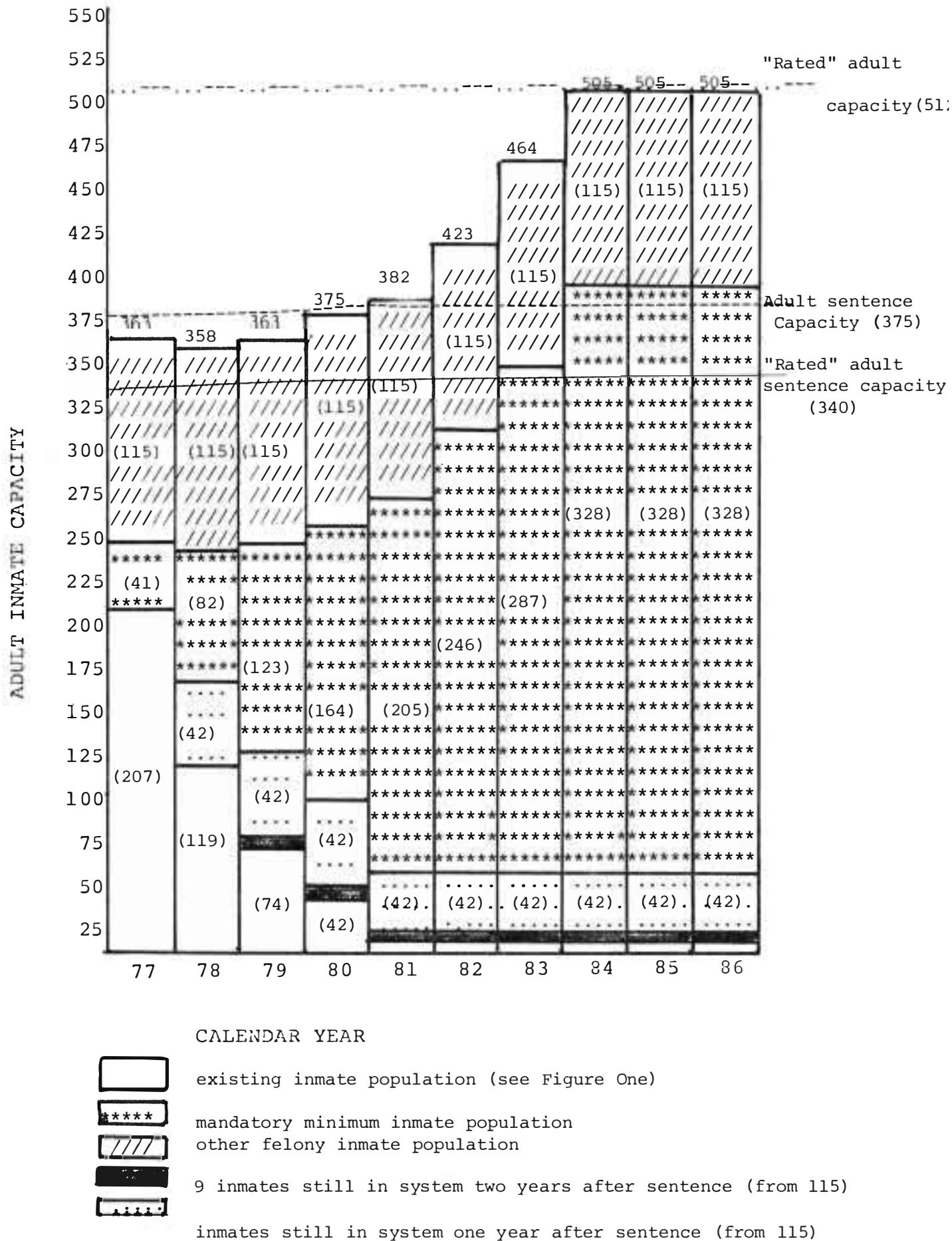
The likely impact of this limited application of mandatory minimum is such that:

- Within the first year from the effective date of enactment "rated adult sentence capacity" would be exceeded by felony inmates alone, leaving virtually no room for those convicted of misdemeanors who might warrant jail sentences.
- "Adult sentence capacity" would be exceeded within five years of enactment, again solely by felony inmates.
- Within eight years the entire existing adult capacity of D.O.C. would be dedicated to convicted felons. No one could be sentenced to jail time for misdemeanor offenses. Virtually no one could be denied bail or O.R. release while awaiting trial or sentencing.
- At the very minimum, the eighth year figures would

* We have assumed a mandatory minimum sentence to be half the maximum sentence for the crime currently provided by statute.

Figure 3

Projected Impact of Limited Mandatory Minimum Sentences
on Existing Adult Sentenced Capacity



remain constant thereafter. In fact, they are likely to grow.

It should be made clear that the eight year growth projections are extremely conservative, as the assumptions set forth following this discussion will make clear. It is quite possible that the same level of inmate felony population projected for 1984 could be reached as early as 1982.

The apparent result of this conclusion is that the State will have to start plans within a year for the construction of a maximum security institution with a minimum capacity of 200 inmates. Failure to take this step would mean that the current institutions at Fairbanks and Juneau would have to be totally dedicated to housing those convicted for mandatory minimum sentence crimes, leaving them no capacity to deal with detention populations, those awaiting sentencing, those convicted on misdemeanors or those convicted on other felonies.*

Two additional incidental questions should also be considered in determining mandatory minimum sentencing policy:

1. Since most defendants come from Anchorage and the corrections capacity likely to be used is in Fairbanks and Juneau, what effect would such a policy have on visitation rights, prisoner morale and related issues?

2. Will new facilities have to be constructed in Fairbanks and Juneau to house residents of those areas awaiting trial or

* If the drop in felony convictions for 1975 noted at p. 11 is truly an aberration, and the felony conviction rate for 1976, like 1973, is 500, assuming absolute increases in convictions rising with population and the possibility also of continuing increases in crimes per 100,000 of population, a comparable increase in prison housing may be necessary to cover "normal" growth.

serving time on convictions for other crimes (misdemeanors, less serious felonies, etc.); or, will those individuals be shifted to other institutions? What hardships will result in either case?

Construction of a new facility* for those convicted of mandatory minimum sentence crimes contains the following implications:

First, we are looking at a facility whose basic function is high security warehousing. Its inmate population will largely be composed of individuals who will be serving very lengthy periods of "dead time". This has the potential for producing a high degree of tension within the institution, increasing security problems and substantially reducing opportunities for effective rehabilitation efforts.

Second, we are looking at an institution whose construction costs (exclusive of land acquisition) are likely to be a minimum of \$100,000 per inmate housed. (Eagle River cost about \$44,000 per inmate in 1973.) Thus, the total construction bill is likely to be no less than \$20 million in very conservative terms.

* We recognize that a more cost effective alternative to construction of a new facility would be to increase the number of individuals convicted of felonies in Alaska who are housed outside the state in other prison systems. We concluded that this alternative is not really viable for two basic reasons. First, inmate populations in other prison systems are currently at record levels and in most cases in excess of capacity. The Federal Bureau of Prisons is already tremendously over-crowded. Thus, the likelihood of those systems accepting the numbers of additional inmates we are projecting seems remote. Second, inmate-initiated litigation demanding that they be housed within Alaska is likely to continue so that administrative, if not court mandated, action may result in the incarceration of all Alaskan inmates within the State in the near future.

Third, man-day operating costs per inmate (in 1975 dollars) are likely to run between \$30 and \$35. Thus, annual operating costs can be projected to run between \$1.1 and \$2.5 million to support the new population, if current costs were to remain fixed. A more likely figure is about \$3.5 million in the first year of operation if it could be opened on January 1, 1980, and if inflationary costs averaged only 10% a year over the next four years.

The following assumptions were made in reaching our conclusions in the second case:

1. A minimum of 500 adults would be convicted on felony charges each year.
2. Crimes carrying mandatory minimums were limited to those outlined in Appendix Two.
3. A minimum of 150 individuals would be convicted for those crimes each year.
4. About 27 per cent of those 150 individuals would be second offenders as that term is defined in Appendix Two.
5. We used a figure of 8 years as the average mandatory sentence given a second offender. In reaching this conclusion we did not weight the sentences proportionately to the distribution of the crimes to which they apply, but most now carry a 20 year maximum (thus a 10 year mandatory minimum for second offenders). By excluding life sentence crimes (which would carry a 44.5 year mandatory minimum) we believe that the eight year figure provides a conser-

vative estimate of average sentence time.

6. We assumed, because of the types of crime for which mandatory minimums would apply and the fact that those convicted of these crimes are at least second offenders, that only two existing state correctional institutions - Juneau and Fairbanks - would be appropriate institutions for housing these inmates. Those two institutions have a total capacity of approximately 200 units.

Thus, the implication for corrections capacity of second offense mandatory minimum sentencing is scarcely less serious when applied to a select group of crimes as it is when applied across the board.

Table 1

EXISTING D.O.C. CAPACITY

		<u>Female</u>	<u>Total</u>
Adult Housing Units	537	29	566
Juvenile Housing Units	91	57	148
Special Service Holding Units	?	?	119
TOTAL HOUSING UNITS			<u>833</u>

Source: 1976 Alaska Criminal Justice Plan, Vol. 1., p. 83.

Table 2

D.O.C. INMATE POPULATION
As of Jan. 1, 1976

<u>Population Type</u>	<u>Number of Inmates</u>
Adult Sentenced	338
Adult Detention	174
TOTAL ADULT POPULATION	<u>512</u>

Source: Communication with Research Division, D.O.C.

Table 3

TIME REMAINING ON CURRENT SENTENCES
As of Jan. 1, 1976

	<u>Number</u>	<u>Percent</u>
Less than two years	179	52.96
Two - three years	30	8.88
Three - four years	33	9.76
Four - five years	29	8.58
Five - six years	12	3.55
Six - seven years	9	2.66
Seven - eight years	4	1.18
Eight - nine years	12	3.55
Nine - ten years	5	1.48
Ten or more years*	25	7.40
TOTAL	<u>338</u>	<u>100.00</u>

* This category includes 6 individuals serving life sentences.

Source: Communication with Research Division, D.O.C.

Table 4

1973 FELONY CONVICTIONS

<u>Crime Type</u>	<u>Number of Defendants Convicted</u>	<u>Percent</u>
Violent	111	21.42
Robbery	25	4.83
Property	199	38.42
Drugs	128	24.71
Checks & fraud	45	8.68
Other	10	1.93
TOTAL	<u>518</u>	<u>100.00</u>

Source: Table xxxix, Sentencing in Alaska, p. 115 (1973)

Table 5

1975 FELONY CONVICTIONS

<u>Crime Type</u>	<u>Number of Defendants Convicted</u>	<u>Percent</u>
Violent	101	25.69
Robbery	32	8.14
Property	119	30.27
Drugs	81	20.62
Checks & fraud	39	9.93
Other*	21	5.35
TOTAL	393	100.00

* "Other" as used here may contain crimes which properly belong in one of the other five categories. The Court System has a coding for "other" felonies. Their concept of "other" and the Judicial Council's are not likely to have been identical.

Table 6

1973 FELONY CONVICTIONS

<u>Type of Sentence</u>	<u>No. of Defendants</u>	<u>Percent</u>
Probation	204	39
30 days or less	71	14
1 year or less but greater than 30 days	123	24
1 - 2 years	27	5
2 - 5 years	28	5
5 years or over	40	8
Other (restitution alone, fees, etc.)	25	5
TOTAL	518	1100.0

Source: Table XLII, Sentencing In Alaska, The Judicial Council (1975). (The table reflects actual jail time a defendant was sentenced to serve.)

Table 7

1975 FELONY SENTENCES

<u>Type of Sentence</u>	<u>Number of Defendants Sentenced</u>	<u>Percent</u>
No time*	112	47.1
Less than one year	63	26.5
One year, less than two	22	9.2
Two years, less than three	11	4.6
Three years, less than four	9	3.8
Four years, less than five	3	1.3
Five years, less than ten	11	4.6
Ten years or more	7	2.9
TOTAL	<u>238</u>	<u>100.0</u>

* Includes S.I.S., deferred sentencing, probation, fines, or restitution; where any one or a combination of those types of sentences was imposed.

Table 8

1973 CRIMINAL HISTORIES

<u>Crime Type</u>	<u>Defendants Convicted</u>	<u>Defendants With Prior Felony Conviction</u>	<u>Percent of Those Convicted w/Prior Felony Conviction</u>
Violent	106	26	24.53
Robbery	24	7	29.17
Property	183	61	33.33
Drugs	126	15	11.90
Checks & fraud	42	14	33.33
TOTALS	<u>481</u>	<u>123</u>	

Source: Table L, Sentencing in Alaska, The Judicial Council, (1975).

Table 9

Jan 1, 1976 Inmate Attrition in 1976

<u>Years Remaining as of Jan 1, 1976</u>	<u>Number of Inmates Serving Sentences</u>	<u>Inmates Paroled</u>	<u>Inmates Remaining In System on Jan. 1, 1977</u>
Less than two	179	179	-
2 - 3	30	20	10
3 - 4	33	22	11
4 - 5	29	-	29
5 - 6	12	-	12
6 - 7	9	-	9
7 - 8	4	-	4
8 - 9	12	-	12
9 - 10	5	-	5
10 or more	25	-	25
TOTALS	<u>338</u>	<u>221</u>	<u>117</u>

Table 10

Jan. 1, 1976 Inmate Attrition in 1977

<u>Years Remaining as of Jan. 1, 1976</u>	<u>Number of Inmates Serving Sentences</u>	<u>Inmates Paroled</u>	<u>Inmates Remaining In System on Jan. 1, 1978</u>
2 - 3	10	10	-
3 - 4	11	11	-
4 - 5	29	19	10
5 - 6	12	8	4
6 - 7	9	6	3
7 - 8	4	-	4
8 - 9	12	-	12
9 - 10	5	-	5
10 or more	25	-	25
TOTALS	<u>117</u>	<u>54</u>	<u>63</u>

Table 11

Jan. 1, 1976 Inmate Attrition in 1978

<u>Years Remaining as of Jan. 1, 1976</u>	<u>Number of Inmates Serving Sentences</u>	<u>Inmates Paroled</u>	<u>Inmates Remaining In System on Jan. 1, 1979</u>
4 - 5	10	10	-
5 - 6	4	4	-
6 - 7	3	2	1
7 - 8	4	-	4
8 - 9	12	-	12
9 - 10	5	-	5
10 or more	25	-	25
TOTALS	<u>63</u>	<u>16</u>	<u>47</u>

Table 12

Jan. 1, 1976 Inmate Attrition in 1979

<u>Years Remaining as of Jan. 1, 1976</u>	<u>Number of Inmates Serving Sentences</u>	<u>Inmates Paroled</u>	<u>Inmates Remaining In System on Jan. 1, 1989</u>
6 - 7	1	1	-
7 - 8	4	4	-
8 - 9	12	8	3
9 - 10	5	-	5
10 or more	25	-	25
TOTALS	<u>47</u>	<u>13</u>	<u>33</u>

Table 13

Jan. 1, 1976 Inmate Attrition in 1980

<u>Years Remaining as of Jan. 1, 1976</u>	<u>Number of Inmates Serving Sentences</u>	<u>Inmates Paroled</u>	<u>Inmates Remaining In System on Jan. 1, 1981</u>
8 - 9	3	3	3
9 - 10	5	5	5
10 or more	<u>25</u>	<u>16</u>	<u>8</u>
TOTALS	<u>33</u>	<u>24</u>	<u>8</u>

Table 14

Projected 1976 Felony Sentences

<u>Type of Sentence</u>	<u>1973 Percentage of Inmates Receiving Said Sentence</u>	<u>1976 Defendants So Sentenced</u>
Probation	39	195
30 days or less	14	70
More than 30 days but less than 1 year	24	120
1 - 2 years	5	25
2 - 5 years	5	25
5 years or over	8	40
Other	<u>5</u>	<u>25</u>
TOTALS	<u>100</u>	<u>500</u>

Table 15

1976 Sentenced Inmate Attrition in 1977

<u>Length of Original Sentence</u>	<u>Number of Inmates Serving Sentences</u>	<u>Inmates Paroled</u>	<u>Inmates Remaining In System on Jan. 1, 1978</u>
1 - 2 years	25	17	8
2 - 5 years	25	17	8
5 or more years	<u>40</u>	<u>-</u>	<u>40</u>
TOTALS	90	34	56

Table 16

1976 Sentenced Inmate Attrition in 1978

<u>Length of Original Sentence</u>	<u>Number of Inmates Serving Sentences</u>	<u>Inmates Paroled</u>	<u>Inmates Remaining In System on Jan. 1, 1979</u>
1 - 2 years	8	8	-
2 - 5 years	8	8	-
5 years or more	<u>40</u>	<u>13</u>	<u>27</u>
TOTALS	56	29	27

Table 17

1976 Sentenced Inmate Attrition in 1979

<u>Length of Original Sentence</u>	<u>Number of Inmates Serving Sentences</u>	<u>Inmates Paroled</u>	<u>Inmates Remaining In System on Jan. 1, 1980</u>
5 or more	27	18	9

Table 18

Projected Defendants Sentenced
to Mandatory Minimums

<u>Crime Type</u>	<u>Defendants Convicted</u>	<u>Percent of Defendants Convicted with Prior Felony Convictions</u>	<u>Defendants Sentenced to Mandatory Minimums</u>
Violent	102	25	26
Robbery	24	30	7
Burglary in a Dwelling	24	33	8
TOTALS	<u>150</u>	<u>88</u>	<u>41</u>

Table 19

PROJECTED REMAINING FELONY DEFENDANTS' SENTENCES

<u>Sentence Type</u>	<u>Percentage Projected to be Sentenced</u>	<u>No. Sentenced</u>
Probation	42	192
30 days or less	15	69
More than 30 days, less than 1 year	26	119
More than 1 year, less than 2 years	6	28
Two years or more, less than 5 years	6	28
Other (fines, restitution, etc.)	5	23
TOTALS	<u>100</u>	<u>459</u>

APPENDIX ONE
EXPLANATION OF CRIME CATEGORIES

The only manageable way to analyze conviction and sentencing according to the crime charged was to divide crimes into categories. Four major categories were chosen - Violent Crimes against Persons, Property Crimes, Drug Crimes, and Check Forgery and Fraud Crimes. Robbery was considered a special category of its own, for it contains elements of both "violence" and "property offense," and has unique conviction and sentencing trends. (The category "Other" contains miscellaneous offenses which were not sufficient in number to warrant separate categorization.)

Each category contains the following individual crimes:

"Violent"

1. All Homicides (Murders, manslaughter, and negligent homicide).
2. All Assaults (Shooting with intent to kill, assault with a dangerous weapon, assault and battery, assaults with intent to rob, rape, etc.).
3. All "Weapons" charges (Felon in possession, careless use of firearms, carrying weapon during commission of a felony).
4. Rape, and other sex-related crimes that are "violent" (lewd and lascivious acts, statutory rape, sodomy, incest, and contributing to the delinquency of a minor [a misdemeanor, which frequently occurs as a charge bargain for one of the preceding]).
5. Kidnapping and child-stealing.

"Property"

1. Burglary in a dwelling, burglary not in a dwelling, attempted burglaries.

2. Grand larceny, larceny in a building, larceny from a person, larceny of money or property, petty larceny, attempted larcenies.
3. Receiving and concealing, retention of lost property, concealment of merchandise.
4. Misdemeanors such as joy-riding, unlawful entry, and malicious mischief and trespass - usually resulting from plea bargains.
5. All arsons, burning to defraud insurer, malicious destruction of property (not included under "violent" because not against persons).
6. Accessory after the fact. (In all cases where this charge was used, it was associated with property crimes.)

"Fraud and Forgery" or "Check and Fraud"

1. Check forgeries, attempts, and passing forged checks; altering checks and passing altered checks.
2. Issuing checks without sufficient funds (both felony and misdemeanor charge).
3. Obtaining property or money under false pretenses.
4. All forms of embezzlement.
5. Defrauding innkeeper.
6. All other forgeries, false statements, and fraudulent use of credit card.

"Drugs"

1. All "soft" drug charges (hallucinogenic, stimulant or depressant drugs, chiefly marijuana, hashish, LSD, etc.) - Possession, possession for sale, and sale.
2. All "hard" drug charges (heroin, cocaine, etc.) - Possession, possession for sale, and sale.
3. Manufacture of hard drug.
4. Attempted sales, and sales to minors.

"Other"

1. Escape.
2. Perjuries.

3. Concealment of evidence.
4. Inciting commission of a felony.
5. Tax evasion, and false tax returns.
6. Attempting to procure female for prostitution.
7. Failure to render assistance, leaving scene of accident,
reckless driving.

Source: Appendix II, Sentencing in Alaska, The Judicial Council, (1975).

APPENDIX TWO

CRIMES TO WHICH MANDATORY MINIMUM SENTENCES WOULD APPLY

<u>Statute Reference</u>	<u>Crime</u>	<u>1/2 of Maximum Sentence</u>
A.S. 11.15.010	First Degree Murder	(45 years)
A.S. 11.15.030	Second Degree Murder	(45 years)
A.S. 11.15.040	Manslaughter	(10 years)
A.S. 11.15.120	Rape	(10 years)
A.S. 11.15.140	Mayhem	(10 years)
A.S. 11.15.150	Shooting, stabbing, etc., with intent to kill, wound, etc.	(10 years)
A.S. 11.15.220	A.D.W.	(5 years)
A.S. 11.15.240	Robbery	(7.5 years)
A.S. 11.20.010	Arson	(10 years)
A.S. 11.20.080	Burglary in a Dwelling house	(10 years)

DEFINITION OF SECOND OFFENDER

A second offender is defined as any individual convicted on a felony listed above who had previously been convicted on a felony charge within or without the State of Alaska.